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Community Health First

Mr. Hawkins for CHF submitted two sets of comments on the PMPD and participated at the Committee Conference on January 13, 2000. Mr. Hawkins disagrees with the testimony of Applicant's expert witness, Mr. Rubenstein, who concluded that there would be no significant impacts to air quality and public health as the result of project-related activities. Mr. Hawkins argues that there are already several power plants in the Pittsburg vicinity and the addition of DEC would contribute significantly to air pollution in the area. As explained in the PMPD, the evidence of record, including Mr. Hawkins' submittals, does not support that assertion.

Mr. Hawkins claims that the data used by Applicant and Staff and BAAQMD was outdated and didn't account for the xenobiotic effects of project emissions. Mr. Hawkins provided excerpts of statements presented by a Dr. Beatrice Golomb when she testified at a November, 1999 hearing on the Gulf War Syndrome before the House Veterans Affairs Subcommittee on Health. Mr. Hawkins also submitted information from a Dr. Rogers who discusses illness caused by exposure to a combination of toxic substances, similar to the illness suffered by Mr. Hawkins. As indicated in the PMPD, the information submitted by Mr. Hawkins, while pertinent to illnesses related to Gulf War Syndrome, is not relevant to whether the project conforms with applicable federal, state, and local laws, ordinances, regulations, and statutes (LORS).

Rather than identifying specific items in the PMPD that should be corrected to reflect the evidence of record, Mr. Hawkins requests that the entire PMPD be rewritten based on his opposition to the project. In particular, Mr. Hawkins believes that gas-fired facilities should not be certified under any circumstances. Although he states that renewable energy technologies should be employed, he did not present any evidence of feasible alternative technologies to the DEC project.

Californians for Renewable Energy

Mr. Boyd for CRE submitted extensive comments on the PMPD. His comments would change the findings and conclusions to deny certification to the project. Many of the changes do not reflect the evidence but rather represent his interpretation of the evidence. For example, Mr. Boyd asserts that the evidence on air quality and public health is outdated and that current data from the new particulate monitoring station was withheld from the record. As the PMPD states, the regulatory agencies, including BAAQMD, CARB, and the EPA, accepted the data used in the air quality and public health analyses and found that the project would comply with applicable LORS. It is noted that a Condition of Certification requires Applicant to provide data from the new air monitor for one year prior to and two years after commercial operation. The record contains no persuasive evidence to support Mr. Boyd's assertion that data were withheld.

Mr. Boyd's comments on environmental justice included several quotations from the EPA's guidance document and expressed his interpretation of those guidelines. As stated in the PMPD, however, there is no dispositive legal ruling on whether the federal guidelines should apply to a state agency such as the Commission. Nor is there legal precedent on interpretation of those guidelines. The guidance document specifically states that [c]ompliance with this guidance will not be justiciable in any proceeding for judicial review of agency action. [Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance (April 1998), p. 2.] Moreover, the evidence clearly established that no significant adverse impacts to air quality and public health would occur to any population from project-related activities. Therefore, Mr. Boyd's discussion regarding the impact zone for the environmental justice analysis does not change the conclusion regarding significant impacts.

Mr. Boyd also commented on alternatives. He maintains, for example, that the Commission should have considered the PDEF project site as the preferred alternative. As stated in the PMPD, the record established that no alternatives analysis is required in this case due to the strong relationship of DEC with an existing industrial site. [Pub. Resources Code, section 25540.6(b).] Nevertheless, the evidence on alternatives was examined in response to concerns from intervenors such as CRE. Mr. Boyd misconstrues the law regarding the Commission's notice of intention requirements and the status of the Commission's certified regulatory program pursuant to Public Resources Code, section 21080.5. [See also, SB 110 (Stats. 1999, Chap. 581).]

In conclusion, the comments of CHF and CRE reflect their views of the evidence and reiterate their opposition to project certification. The PMPD has already addressed their opposition to the project. The Committee is not persuaded by their comments that any substantive findings contained in the PMPD should be revised.

LIST OF ERRATA

The Errata will be considered and incorporated by reference in the PMPD, which is scheduled for hearing by the full Commission at its February 9, 2000, Business Meeting. Typographical errors and minor grammatical errors not specifically identified in the Errata will be corrected to the extent possible in due course.

GENERAL CORRECTIONS

- Page 2; Page 311; Page 322: The project labor agreement is with the State Building and Construction Trade Council of California, not CURE.

- Page 161; Page 180 (2 times); Page 252 (text and footnote 152); Page 300 (Table text); Page 307: references to Casa Medanos Apartments are changed to Casa Medanos residential motel.

INTRODUCTION

- Page 3, second full paragraph: The auxiliary boiler stacks will be 115 feet high, not 114.

PROJECT DESCRIPTION

- Page 9, second paragraph: change 26 MW to 20 MW of electricity
- Page 14, first paragraph, add the following to the fourth sentence: The transmission line then turns north to the PG&E switchyard, which is located at the Pittsburg Power Plant owned by Southern Energy. Regarding impacts to the property owned by Southern Energy, Applicant's witness, Mr. Buchanan testified that Applicant is negotiating with the Southern Company regarding their site, all aspects, access, environmental, routing, and easement. (10/5 RT 60:20-24.)
- Page 16, first full paragraph: the capital cost of the project from \$350 to \$450 million annually, not \$350 to \$485 million.

ALTERNATIVES

- Page 20, second paragraph: must be located in proximity to ~~within one-half mile of~~ Dow
- Page 34 add as new Finding: 7. None of the proposed alternative sites would avoid or substantially lessen any potential direct, indirect, or cumulative significant impacts of the project. Existing numbers 7-11 are renumbered 8-12.

COMPLIANCE AND CLOSURE

- Page 40, fourth paragraph, last sentence replace ~~/1769 (Attachment A)~~ with /1770(d)
- Page 43, Department of Fish and Game section replace with the following: Pursuant to the provisions of Fish and Game Code 711.4, the project owner shall pay a filing fee in the amount of eight hundred and fifty

dollars (\$850). The payment instrument shall be provided to the Commission s Project Manager at the time of project certification and shall be made payable to the California Department of Fish and Game. The Commission s Project Manager will submit the payment to the Office of Planning and Research as payment to the Secretary of the Resources Agency at the time of filing of the Notice of Decision pursuant to Public Resources Code/21080.5.

- Page 49, last paragraph, last line delete or 4) change a condition verification requirement.
- Page 50, second paragraph: The criteria under section 1769 (see, Attachment A after this section), that determine which type of change process applies .

TRANSMISSION SYSTEM ENGINEERING

- Page 85, second complete paragraph, second line Participating Transmission Operators changed to Participating Transmission Owners
- Page 86, second complete paragraph, seventh line delete (See, **Facility Design** section.)
- Page 86, end of third paragraph, add new citation (Ex. 10 ; see also, 10/5 RT 60-61.)
- Page 87, second full paragraph, second sentence change to the PG&E substation, instead of the Pittsburg Power Plant switchyard.
- Page 90, third paragraph, Section on Cumulative Impacts: Both DEC and PDEF will be connecting to the grid at the PG&E substation located adjacent to the Pittsburg Power Plant.
- Page 91, second complete paragraph, last line add 1g so the last line should read, Conditions TSE-1b, 1e, and 1g .
- Page 91, Findings and Conclusions, item 1 change the wording to read, Delta Energy Center will interconnect with the Cal-ISO controlled grid at PG&E s substation at the Pittsburg Power Plant ~~switchyard~~.
- Page 91, Findings and Conclusions, item 2 delete, at 230 kV per circuit from the end of the sentence.
- Page 94, Before the first paragraph add the word **Verification** .

AIR QUALITY

- Page 105, second paragraph, eighth line delete and 2.5 microns
- Page 105, third paragraph, third line change the word operate to construct
- Page 114, paragraph c, lines 8-11 move the entire sentence that begins, Mitigation requirements are to footnote 61
- Page 117, first full paragraph, line 8 change at to based on
- Page 118, last paragraph, change second through fourth lines to read: In addition, Staff requested that the Air District require the Applicant to provide offsets for cooling tower PM₁₀ emissions. (Ex. 54, p. 22-120.)
- Page 122, item #1, fifth and sixth lines delete and PM_{2.5}
- Page 122, item # 4, second line, should read: "... for the federal O₃ standard and the California standard ~~for O₃ and PM₁₀~~ 24 hour average PM₁₀ standard and O₃ standard."
- Page 122, item #5, second line after particulate matter add PM₁₀
- Page 123, item #16, second line change for to over
- Page 152, AQ-74, number three under Protocol, fourth sentence change AQ-2 to AQ-75.
- Page 150, AQ-73: The reference to Condition #71 at the very end of this condition is changed to reference Condition AQ-72.
- Page 153--Change AQ-2 to AQ-75 in number one of the verification portion of Condition AQ-75.

PUBLIC HEALTH

- Page 159, second paragraph, Section Noncriteria Pollutants add new sentence after the first sentence which states: "However, there are state and federal regulatory programs and requirements for protecting public health from non-criteria pollutants."

- Page 161, after sixth bullet add new sentence, which states: "If the risks from the highest potential impact are not significant, then emissions from the facility will not pose a threat to public health."
- Page 163, third full paragraph, first sentence revise as follows: "The screening analysis indicated that the maximum risk hazard index for acute non-cancer effects "
- Page 163, third paragraph, second sentence revise as follows: "The maximum risk hazard index for chronic non-cancer effects "
- Page 169, Finding 3 revised to read: Applicant performed a health risk assessment, using well-established ~~criteria~~ scientific protocol, to analyze
- Page 169, Finding 6 replace with the following: " The potential cumulative impact of the DEC project on public health is *de minimis*."
- Pages 169-170: Correct typographical error where the last four lines on page 169 are repeated as the first four lines on page 170.

WASTE MANAGEMENT

- Page 187, first paragraph, last sentence revise as follows: Prior to the expiration of the regulatory 90-day storage period, the waste will be delivered to an authorized hazardous waste management facility.

BIOLOGICAL RESOURCES

- Page 194, footnote 94: The reference to tables and figures is deleted.
- Page 195, first full paragraph, first sentence revise as follows: Applicant discovered a small seasonal wetland 95 (0.16 acres), containing cysts of ~~the~~ that could not conclusively be determined to be federally threatened vernal pool fairy shrimp in the construction area. This wetland will be lost due to project development at the site.
- Page 195, third paragraph—Applicant was not able to confirm that the cysts were, in fact, the species of vernal pool fairy shrimp listed as federally threatened.
- Page 195, Footnote 96 Dry season sampling of the cysts did not prove dispositive for vernal pool fairy shrimp, as opposed to versatile fairy shrimp.

- Page 196, first sentence: "habitant" is replaced with "habitat."
- Page 197, second paragraph, third sentence is corrected to state Sensitive habitats, such as the Dow Wetlands Preserve and Coastal Brackish Marsh will be avoided by horizontal directional drilling (HDD). [footnote 102] One segment of the pipeline that passes south of the Antioch Marina in the BN&SF right-of-way will be buried in a trench about 700 feet long where there is no sensitive habitat. (11/3 RT 52:12; 63:6.)
- Page 197, Footnote 103 Delete first sentence.
- Page 199, first paragraph of Ms. Brown's testimony: spelling of the word "splittail" is corrected.
- Page 201, Finding 3 of the federally-listed vernal pool fairy shrimp.
- Page 201, Finding 4 is revised as follows: The ~~above seasonal wetland~~ annual grassland on the DEC site is potential habitat .
- Page 202, Finding 9: delete reference to "annual grasslands"
- Page 203, second paragraph: reference to waste management is changed to biological resources
- Page 204, second full paragraph Insert the following sentence at the end of the second full paragraph: "No disturbance will be allowed in any designated sensitive area (s) until the CPM approves a new designated biologist and that designated biologist is onsite."
- Page 204, third paragraph delete this paragraph.
- Page 204, Condition BIO-1: The word **Verification** is inserted before the words "At least 30 days ".
- Page 205, Condition BIO-3: The second sentence of the condition is corrected to state: The WEAP shall ~~are~~ inform employees about biological resource .
- Page 206, Condition BIO-5--add the following phrase to the end of the first sentence as well the transmission lines over Dowest Slough.
- Page 207, Verification to BIO-5 add the following sentence: If there are any problems with bird mortalities as identified in the monthly summaries, the CPM will notify the project owner to implement agreed

upon mitigation measures within a reasonable time to be determined by the CPM.

- Page 208, Condition BIO-8 add the following new second sentence:
Site disturbance and project construction shall not commence until the CPM has approved the BRMIMP.
- Pages 208-210: The acronym for the Biological Resources Mitigation and Implementation and Monitoring Plan (BRMIMP) is corrected.
- Page 209, bottom of the page: the paragraph that begins Within 30 days after completion is BIO-9, a separate and distinct condition.

SOIL AND WATER RESOURCES

- Page 212: location of footnote 107 is placed on correct page corresponding to the reference.

CULTURAL RESOURCES

- Page 230, second line—add the word significant before the phrase, adverse impacts .
- Page 232, item d—drop the d designation from this item. This paragraph is part of CUL-2 and not a part of the itemized list.

LAND USE

- Page 257, Section Natural Gas Supply Pipeline, second bullet: The words "places it underground" are deleted.
- Page 257, Footnote 142, third sentence: Although the pipeline route is primarily within Planned Industrial (M-1) or Industrial District (M-2) zoned land within the City of Antioch, it will travel through unincorporated Contra Costa County in one location.

TRAFFIC AND TRANSPORTATION

- Page 267, last paragraph, first sentence delete first sentence.

- Page 269, second paragraph, third sentence is rewritten as follows:
"Between the gas pipeline interconnection point at PG&E's Line 400 and the DEC site, the gas pipeline will cross four streets in the City of Antioch: Viera Lane, Minaker Drive, Fulton Shipyard Road, and L Street."
- Page 275, Condition TRANS-6, Protocol: delete Bridgehead Road and Wilbur Avenue ; correct Fulton Road and Shipyard Road to Fulton Shipyard Road.

VISUAL RESOURCES

- Page 284, third paragraph, second sentence: This sentence is revised as follows: " and cooperation with the City of Pittsburg and Dow Chemical in development of landscaping and preservation of views across the retention basin, that provide views of the river."
- Page 286, Findings and Conclusions Number 7 is revised as follows: "Applicant will cooperate with the City of Pittsburg and Dow Chemical in development of landscaping around and preservation of views across a drainage retention basin along the western boundary of the project site.
- Page 290, Verification, third line—change the word approved to comment
- Page 291, VIS-7, second line—add the word the before the words power plant
- Page 294 and 295, Protocol—change all the bulleted items to numbered items.

NOISE

- Page 306, Verification to Condition NOISE-5 is changed to state shall send a letter to the CPM confirming that they have ~~been~~ notified residents and business entities of the planned steam blow activities
- Page 307, Condition NOISE-8, last paragraph add the word Verification

SOCIOECONOMICS

- Page 318, top of the page should read: " ...however, Staff found that the demographic data do not reveal a significantly greater minority population within the city in the affected area than in Pittsburg as a whole. In fact, the minority composition of Pittsburg is greater than that of the affected area."
- Pages 318-319, footnote 170, should read: " ...impacts are mitigated to levels of insignificance that are less than significant."
- Page 322, last sentence of first full paragraph, add this phrase to end of sentence: " ...designed to protect the public health of the most sensitive receptors."
- Page 323, Finding 12 should read project-related impacts ~~is~~ lies within a five-mile radius around the site.
- Page 323, Finding 13 should read within the five-mile radius and within the footprint of the highest concentrations of air contaminants (which are below levels of significance) is not predominately minority .

By Order of the Committee:

Dated: :February 2, 2000

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

____original signed_____
WILLIAM J. KEESE
Chairman and Presiding Member
Delta Energy AFC Committee

____original signed_____
ROBERT PERNELL
Commissioner and Associate Member
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